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Remarks

It is observed that the Examiner still rejected claims 1-11 and 18-20 as being unpatentable over Gibbens in view of Speth, claims 12-14 as being unpatentable over Gibbens and Speth, in view of Garneau and claims 21 and 22 as being unpatentable over Gibbens in view of Garneau.

According to the Examiner, the only difference between applicant's current claim 1 and Gibbens is that Gibbens does not disclose that the double-stretch padding is attached to the shorts in an absence of stitched seams.

However, Speth would disclose such feature and thus the combination of the two prior art documents would be obvious.

The applicant wishes to submit the following remarks.

As indicated in the applicant's last letter, the protective element of Gibbens is not comparable to the applicant's protective element since due to its constructive arrangement elasticity is not present in the meaning of the applicant's invention.

Although it is certainly true that the protective element of Gibbens has a certain degree of elasticity, such elasticity is not the same as the applicant's one and above all the various elements that compose the cycling shorts of Garneau have a very different elastic behavior which translates in a lack of comfort for the user

In fact, the whole assembly of Gibbens (as already stated in applicant's last letter), consists of a cycling short with a padding coupled thereto, the cycling shorts being made of elastic material (which could as well be lycra or similar material), the padding being made of a resilient material (even if it is not explicitly said by Gibbens that the padding is made of a material which is a double-stretch material) covered by a layer (main member 6) of a material having a napped or felt surface, such as a fabric made of polypropylene fiber.

In summary, even if the pads of Gibbens (please note that it is said "pads" and not "padding" since the padding according to Gibbens is the result of the coupling of a fabric material made for example of polypropylene with the pads made of foam material) were double stretch elements (and this is not even said by Gibbens since it is

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not his issue), the coupling of the pads with the external layer of fabric which is not elastic (in any case at least not a double-stretch material) would produce a "padding" that is not a double stretch one as claimed in the applicant's claimed invention.

The external fabric layer, not elastic, would deprive the pads of their elasticity, if any.

This "padding" is thus not comparable to the applicant's protective element.

It should be considered that cycling shorts made of foam material do not exist, but cycling shorts made of lycra do exist

In Garneau the cycling shorts are surely not made of foam while the protective element is.

This means that the cycling shorts and the protective element cannot be made of the same material and Garneau does not even suggest this possibility.

The cycling shorts of Garneau are probably made of lycra or similar material and the pad of Garneau is the result of the coupling of a fabric material made for example of polypropylene with an intermediate layer made of foam material.

The coupling of the pads with the external layer of fabric which is not elastic (in any case at least not a double-stretch material) would produce a "padding" that is not a double stretch one as claimed in the applicant's claimed invention.

In summary, even if the pad of Garneau were a double-stretch pad, as far as its intermediate layer is concerned, this pad would lose all its elastic properties when coupled to two external layers that are surely not elastic as the element that comes to be sandwiched between them and in any case the resulting pad could not have the same elastic properties of lycra which the cycling shorts are made of.

Thus, the applicant is of the opinion that present claim 1 is both new and inventive over the cited prior art documents in that Gibbens does not provide a "padding" that results to be double stretch and wherein the support and the padding have the same behavior as far as elongation along multiple planes is concerned.

The "same behavior" means that the protective element and the support must have the same elastic features since they have to behave as a single element for the user's comfort. This immediately translates in that the elastic behavior of the two elements must

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be approximately the same.

Thus, pending claim 1 has been amended to reflect this. No new subject-matter has been introduced in the claim since the added wording only better details what was already present in the claim and in any case what is implicitly meant by "same behavior" when elongation along multiple planes is the subject of the phrase.

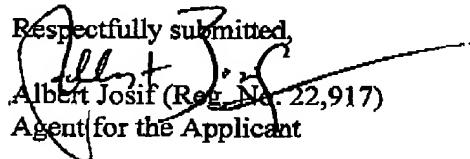
That is to say, "same behavior" in this context cannot have any other meaning than "same elastic behavior".

If this "same elastic behavior" is not the case, as in Garneau, even if combined with Speth, the result is something that is not even similar to the applicant's claimed invention.

Thus, in view of the above, it is strongly believed that even the combination of Gibbens with Speth or with any other cited prior art documents would not lead the skilled man in the art to devise a protective element as claimed in independent claims 1 and 21.

In view of the above, reconsideration of the pending claims is respectfully requested by the applicant.

Should the Examiner believe that the application is still not in an allowable condition only because of minor deficiencies, an informal phone conversation with the Examiner or an Examiner's Amendment are kindly requested by the Applicant. Should the Examiner still be of the opinion that present claim 1 is obvious over the cited prior art documents, the applicant is going to file an appeal.

Respectfully submitted,  
  
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